

THE STATE OF OHIO, HAMILTON COUNTY

COURT OF COMMON PLEAS

CRIMINAL DIVISION

| | | |
|---------------|---|----------------------------|
| STATE OF OHIO | : | NO. B9400481 |
| Plaintiff | : | (Judge Morrissey) |
| vs. | : | <u>BILL OF PARTICULARS</u> |
| LEE MOORE | : | |
| Defendant | : | |

Now comes the State of Ohio, by and through Assistant Prosecuting Attorney, Mark E. Piepmeier, and in response to Defendant's Request for Bill of Particulars states as follows:

The indictment is hereby incorporated into this Bill of Particulars.

On or about January 14, 1994, Melvin Olinger was in town from his home in Illinois and was staying with his parents in Fairfield. On the evening of January 14, 1994, he was approached by the defendant at gunpoint outside of Gina's Lounge in Fairfield, Ohio. The defendant forced Mr. Olinger into the trunk of his car, a 1994 Ford Taurus, at gunpoint, and drove the car of Mr. Olinger into Hamilton County with Mr. Olinger in the trunk. Later that evening the defendant drove the car to the rear of the Gilbert Machine Company located at 3366 Llewellyn in Cincinnati, Ohio. At this location Mr. Olinger was ordered from the trunk of his car, his personal belongings were taken, and he was shot to death by the defendant. Over the next several days the credit cards of Mr.

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Olinger were used to make purchases by the defendant and co-defendants.

Mark E. Piepmeier, 0006894P
Assistant Prosecuting Attorney
914 Main Street
Cincinnati, Ohio 45202
513/632-8534

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon each party or attorney of record in the proceedings for each party by personal delivery on the _____ day of _____, 1994.

Mark E. Piepmeier, 0006894P
Assistant Prosecuting Attorney

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CINCINNATI POLICE DIVISION
CONSENT TO SEARCH WITHOUT A WARRANT

I, LEE E. MOORE, SR., having been informed of my constitutional right not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize members of the Cincinnati Police Division and/or its agents to conduct a search of 1101 CLEARBROOK DR.

These officers are authorized by me to take from my RESIDENCE

of which I am the lawful occupant, any letters, papers, materials, or other property which is contraband, or may be used as evidence in a criminal or civil proceeding.

This written permission is being given by me to members of the Cincinnati Police Division and/or its agents voluntarily and without threats or promises of any kind.

LEE E. MOORE SR.
Signature

1101 CLEARBROOK DR.
Address 1-21-94 1045 AM

WITNESSES:

Harlene Lackey
Gary Seal

CINCINNATI POLICE DIVISION

CONSENT TO SEARCH WITHOUT A WARRANT

I, OTTO ANDERSON, having been informed of my constitutional right not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize members of the Cincinnati Police Division and/or its agents to conduct a search of MY RESIDENCE 1738 NEWBROOK DR
CINT, OHIO, 45231 (522-3619)

These officers are authorized by me to take from my RESIDENCE

of which I am the lawful occupant, any letters, papers, materials, or other property which is contraband, or may be used as evidence in a criminal or civil proceeding.

This written permission is being given by me to members of the Cincinnati Police Division and/or its agents voluntarily and without threats or promises of any kind.

x Otto Anderson
Signature

1738 Newbrook Dr Cinti 45231
Address

WITNESSES:

Spec Ray J. Morano

CINCINNATI POLICE DIVISION

CONSENT TO SEARCH WITHOUT A WARRANT

I, TRISTA NEAL, having been informed of my constitutional right not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize members of the Cincinnati Police Division and/or its agents to conduct a search of MY RESIDENCE 10889 SPRUCEHILL Rd CINCINNATI, OHIO 45240 (742-8392).

These officers are authorized by me to take from my RESIDENCE

of which I am the lawful occupant, any letters, papers, materials, or other property which is contraband, or may be used as evidence in a criminal or civil proceeding.

This written permission is being given by me to members of the Cincinnati

Police Division and/or its agents voluntarily and without threats or promises of any kind.

VERBAL CONSENT BY SHATUNDA NEAL
TO SGT ROBERT DISBANNETT

x Trista Neal

Signature

10889 SPRUCEHILL Rd

Address

WITNESSES:

Spec Ray J. McCono

CINCINNATI POLICE DIVISION

CONSENT TO SEARCH WITHOUT A WARRANT

I, Edward Moore, having been informed of my constitutional right not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize members of the Cincinnati Police Division and/or its agents to conduct a search of 1101 CLEARBROOK DR.

These officers are authorized by me to take from my RESIDENCE
GOLD NUGGET RING & .357 AMMUNITION
of which I am the lawful occupant, any letters, papers, materials, or other property which is contraband, or may be used as evidence in a criminal or civil proceeding.

This written permission is being given by me to members of the Cincinnati Police Division and/or its agents voluntarily and without threats or promises of any kind.

X *Lee E. Moore Jr.*
Signature
1101 Clearbrook
Address

WITNESSES:

[Signature]
[Signature]

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS
CRIMINAL DIVISION

STATE OF OHIO : NO. B9400481
Plaintiff : (Judge Morrissey)
vs. : STATE'S MOTION FOR DISCOVERY
LEE MOORE :
Defendant :

Now comes the undersigned Assistant Prosecuting Attorney who moves the Court for an order requiring the Defendant to provide the State of Ohio the following discovery:

1. Any books, papers, documents, photographs, tangible objects, or copies or portions thereof, available to or within the possession, custody or control of the Defendant and which the Defendant intends to introduce in evidence at trial.

2. Any results of reports of physical or mental examinations and of scientific tests or experiments made in connection with the above captioned case, or control of the Defendant, and which the Defendant intends to introduce in evidence at trial, or which were prepared by a witness whom the Defendant intends to call at trial, in the event that such results or reports relate to the witness' testimony.

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3. A complete list of the names, addresses, dates of birth, and social security numbers of the witnesses whom the Defendant intends to call at trial.

Mark E. Piepmeier, 0006894P
Assistant Prosecuting Attorney

MEMORANDUM

Defendant has been provided all available discovery which is required under Rule 16(B)(1)(c) through (e). Rule 16(C)(1)(a), (b), and (c) allow for the disclosure of evidence by the Defendant on the pre-condition that the prosecution has first complied with Rule 16(B). Since the prosecution has met its obligation under the Rule, the granting of this Motion is appropriate under the law.

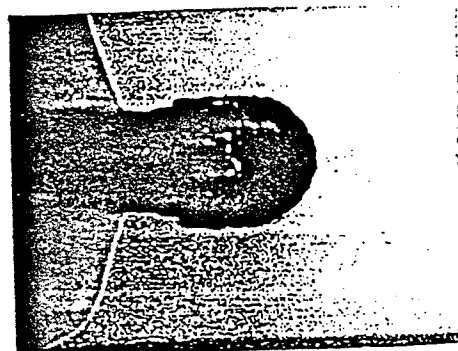
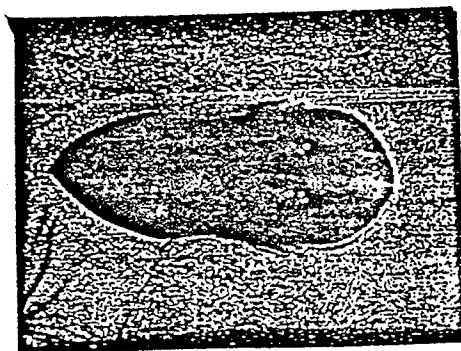
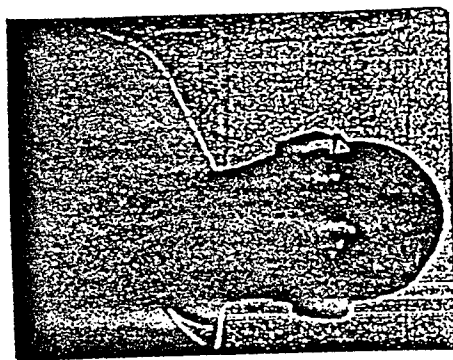
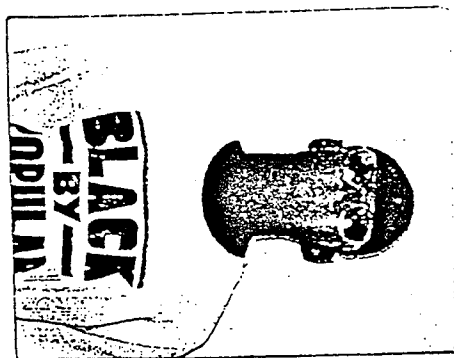
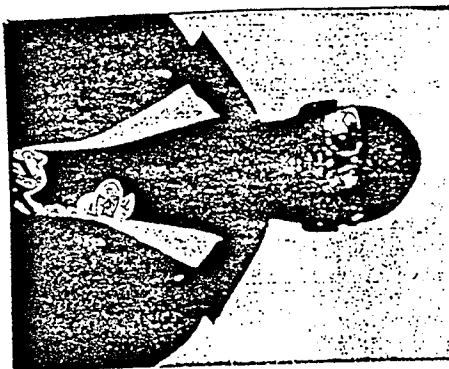
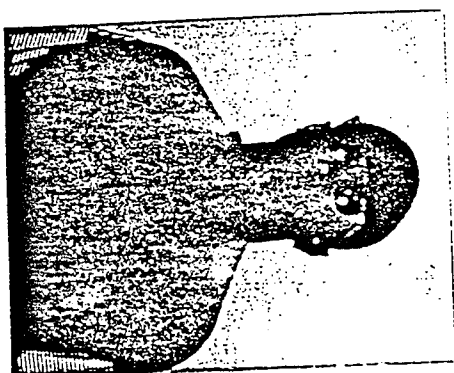
Mark E. Piepmeier, 0006894P
Assistant Prosecuting Attorney
914 Main Street
Cincinnati, Ohio 45202
513/632-8534

CERTIFICATE OF SERVICE

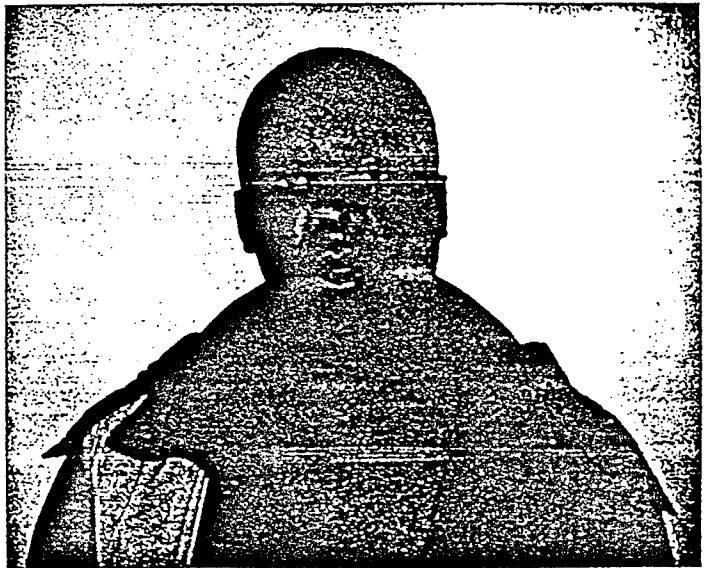
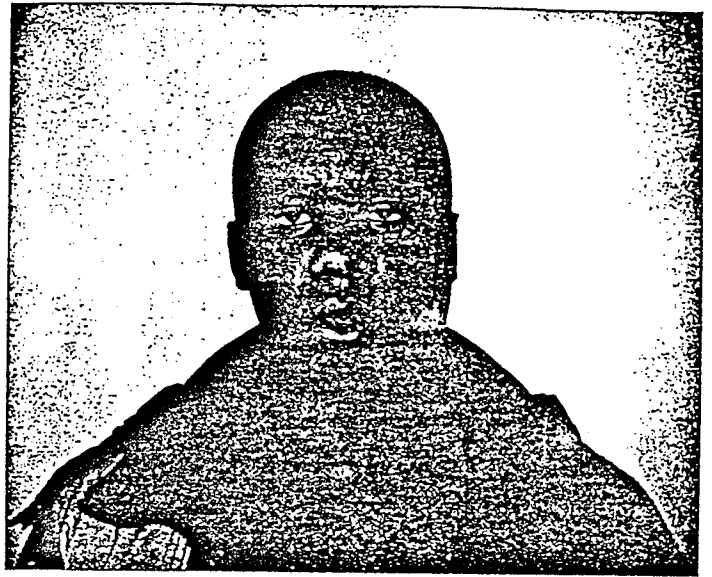
I hereby certify that a copy of this document was served upon each party or attorney of record in the proceedings for each party by personal delivery on the _____ day of _____, 1994.

Mark E. Piepmeier, 0006894P
Assistant Prosecuting Attorney

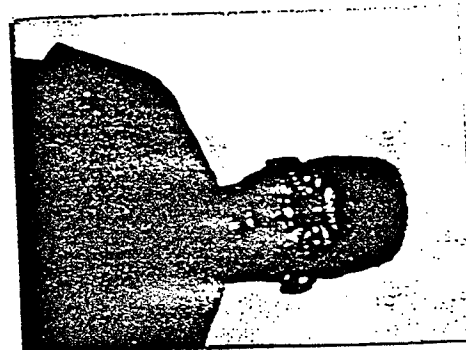
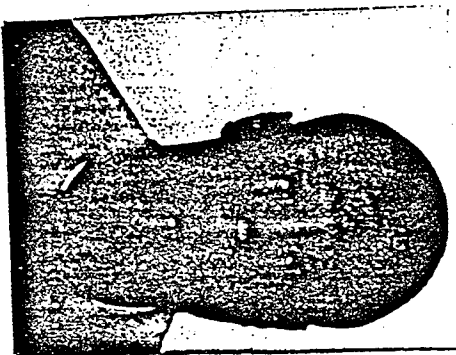
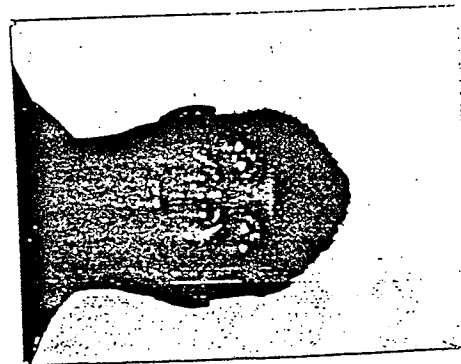
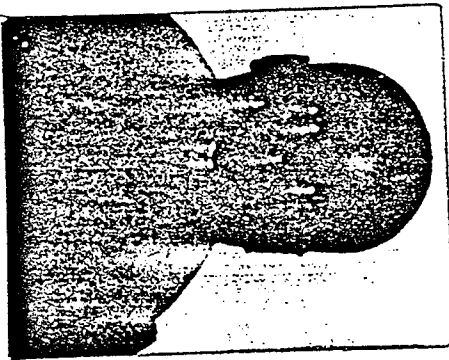
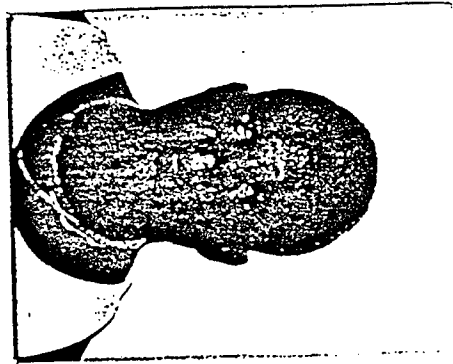
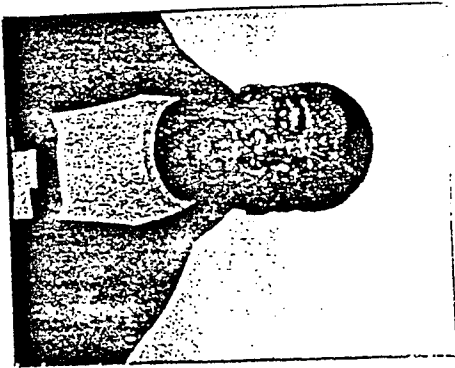
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DANIEL J. JAMES
ATTORNEY AND COUNSELOR AT LAW
13TH FLOOR, AMERICAN BUILDING
30 EAST CENTRAL PARKWAY
CINCINNATI, OHIO 45202

(513) 721-1995

SUBURBAN OFFICE
4226 BRIDGETOWN ROAD
CINCINNATI, OHIO 45211
(513) 574-5400

TO:

NAME:

COMPANY:

FAX #

Jim Deardorff

Deardorff & Hoas

281-6760

TODAY'S DATE

5-2-94

FROM:

NAME:

Dan James

NUMBER OF PAGES:

14

(Including Cover Sheet)

COMMENTS:

This notice is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return these papers to us at the address shown above via first class mail.

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COURT OF COMMON PLEAS
CRIMINAL DIVISION
HAMILTON COUNTY, OHIO

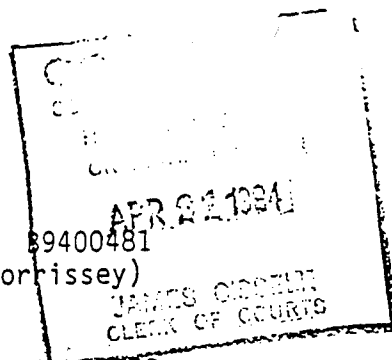
STATE OF OHIO

Plaintiff

vs.

LEE MOORE

Defendant.

Case No. 89400481
(Judge Morrissey)MOTION TO SUPPRESS
STATEMENT

Comes now the Defendant, Lee Moore, by and through his attorney, and respectfully requests that this Court grant an order suppressing use at trial by the prosecuting attorney of any statement, written, oral or recorded, made by the Defendant herein. As a basis for this request, the Defendant states that these statements were obtained in violation of the Defendant's constitutional privilege against self incrimination and right to due process. Further, the Defendant states that these statements were made without the advice of counsel and in violation of his rights as guaranteed by the Fifth and Sixth Amendments of the United States Constitution.

WHEREFORE, this Defendant requests this Court to suppress the use at trial of any statement made by the Defendant.

Respectfully requested,

A handwritten signature in cursive script, reading "Timothy J. Deardorff".

Timothy J. Deardorff 1848
Attorney for the Defendant
169 E. McMillan Street
Cincinnati, Ohio 45219
(513) 241-4030

A handwritten signature in cursive script, reading "Daniel J. James".

Daniel J. James J-074 8067
Attorney for the Defendant
30 E. Central Pkwy., 13 Fl.
Cincinnati, Ohio 45202
(513) 721-1995

MEMORANDUM IN SUPPORT

On January 21, 1994 the Defendant herein, Lee Moore, was interviewed by members of the Cincinnati Police Division and the Fairfield Police Department. This interview and the statements obtained occurred in violation of the Defendant's rights as guaranteed by the Fifth and Sixth Amendments of the United States Constitution.

Further, the Defendant states that this interview and the statements obtained are inadmissible and in violation of the Defendant's privilege against self incrimination as guaranteed by Miranda vs. Arizona (1966) 384 U.S. 436, 86 S. Ct. 1602, 16 L.Ed. 2d 694, Escobedo vs. Illinois (1964) 378 U.S. 478, 84 S.Ct. 1758, 12 L.Ed. 2d 977, State vs. Brewer (1990) 53 Ohio St. 3d 50, 549 N.E.2d 491.

Counsel reserves the right to cite further cases at the evidentiary hearing in this matter.

Timothy J. Deardorff
Timothy J. Deardorff 1848
Attorney for the Defendant

Daniel J. James
Daniel J. James J-074 8067
Attorney for the Defendant

NOTICE OF HEARING

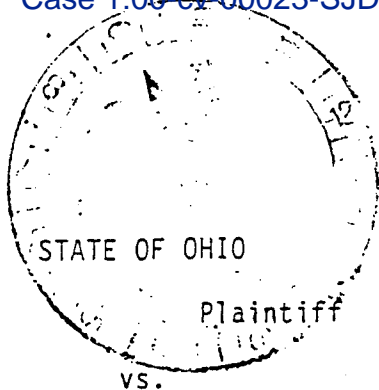
Please take notice that a hearing on the foregoing Motion has been scheduled for the 5th day of May, 1994 at 10:00 A.M. before Judge Morrissey, Court Room 360 at the Hamilton County Courthouse, Court and Main Streets in downtown Cincinnati.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion was hand delivered to the Office of the Hamilton County Prosecutor, 4th Fl. of the Hamilton County Courthouse, this 21st day of April, 1994.

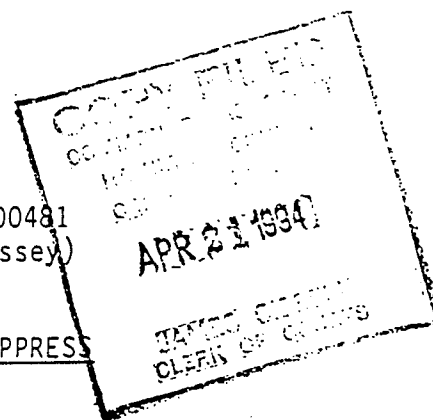
Timothy J. Deardorff
Timothy J. Deardorff 1848
Attorney for the Defendant

Daniel J. James
Daniel J. James J-074 8067
Attorney for the Defendant



LEE MOORE

Defendant

COURT OF COMMON PLEAS
CRIMINAL DIVISION
HAMILTON COUNTY, OHIOCase No. B9400481
(Judge Morrissey)MOTION TO SUPPRESS

Comes now the Defendant, Lee Moore, by and through his attorney and moves this Court for an order suppressing the introduction into evidence by the State of Ohio of any and all evidence, including all physical evidence, seized by police officers as a result of the arrest of the Defendant and the subsequent searches that occurred.

As a basis for this request, the Defendant states that this evidence was obtained and seized without a search warrant, without obtaining appropriate consent and in violation of the Defendant's constitutional rights as guaranteed by the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

Respectfully requested,

Timothy J. Deardorff
Timothy J. Deardorff 1848
Attorney for the Defendant
169 E. McMillan Street
Cincinnati, Ohio 45219
(513) 241-4030

Daniel J. James
Daniel J. James J-074 8067
Attorney for the Defendant
30 E. Central Pkwy., 13 Fl.
Cincinnati, Ohio 45202
(513) 721-1995

MEMORANDUM IN SUPPORT

On January 21, 1994 the Defendant herein, Lee Moore, was taken into custody and placed under arrest by officers of the Cincinnati Police Division. Subsequent to this arrest items of physical evidence were seized by officers pursuant to several searches. These searches and seizures occurred without valid search warrants, without appropriate consent and in violation of the Defendant's constitutional rights as guaranteed by both Federal and State Constitutions. Schneckloth vs. Bustamonte (1973) 412 U.S. 218, 93 S.Ct. 2041, 36 L.Ed. 2d 854.

Counsel reserves the right to cite further cases at the evidentiary hearing held in this matter.

Timothy J. Deardorff
Timothy J. Deardorff 1848
Attorney for the Defendant

Daniel J. James
Daniel J. James J-074 8067
Attorney for the Defendant

NOTICE OF HEARING

Please take notice that a hearing on the foregoing Motion has been scheduled for the 5th day of May, 1994 at 10:00 A.M. before Judge Morrissey, Court Room 3C0 at the Hamilton County Courthouse, Court and Main Streets in downtown Cincinnati.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion was hand delivered to the Office of the Hamilton County Prosecutor, 4th Fl. of the Hamilton County Courthouse, this 21st day of April, 1994.

Timothy J. Deardorff
Timothy J. Deardorff 1848
Attorney for the Defendant

Daniel J. James
Daniel J. James J-074 8067
Attorney for the Defendant

Form 708B

Case Number

B9400661

THE STATE OF OHIO,
Hamilton County,

} ss. Court of Common Pleas

SUBPOENA FOR WITNESS

To Lee Moore, Jr.,

To DANIEL JAMES

You are required to attend on the 2nd day of May A.D. 1994
at 9:00 o'clock A.M., in the Court House in Cincinnati, in said County,
before the Hon. Judge Cartolano Judge of said Court, in Room
No. to testify as witness on behalf of State of Ohio

in the case of State of Ohio

versus

Jason T. Holmes

and not depart the Court without leave. Fail not under penalty of the law.

NOTICE
REPORT AT PROSECUTING
ATTORNEY'S OFFICE
ROOM 411

WITNESS my hand and the seal of the said Court at Cincinnati,
this 22nd day of April A.D. 1994

JAMES C. CISELL

Clerk of the Court of Common Pleas of Hamilton County, Ohio

Longano - P0018087/Butler - P0024483

As't Pro.

By PRESS FIRMLY

Jack Cottrell Deputy

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EMBASSY
SUITESSM

Payne v Tenn
Some victim impact admissible -
5th Cir as App Circuits have impact
on victim family

[opinion of victim family, Pol Office - not
people - a 47 factor]

decided on evidence - reason - not emotion
portion

Argue - trial - test strength of evidence

4554 Lake Forest Drive Blue Ash, Ohio 45242 513/733-8900

003348



EMBASSY
SUITESSM

B-7. effect of Mary + Alcohol
on ability to reason.
Psych to testify

Mitigation

B-3

B-7 - Mental

? - Retardation

Oh Sup Ct - Mental defects & problems that might not
be considered under B-3 can be raised in B-7

State v Green 660 S.W.2d 140

File Motion - Pro Argument, Instruction - only
re mitigation factors raised

Memo - B-7. effect of Mary in mental
but not a Mental Defect under B-3

should not consider facts & emotion, having
facts of offense as by Circumstances
State v Steffen



EMBASSY
SUITESSM

Paul P. P. P.
RACE

Butson V Ky
1025 Et 1712 (1986)

Object - Prosecuting challenge, in racially
discriminatory manner

Try cases to win

MITIGATION

Do not Request PSI

" " " "

Mental Evaluation } Jury
will see

Conclude - State's rebuttal of negligence